UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/SR.1197
4 November 1992

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

Forty-sixth session

SUMMARY RECORD OF THE 1197th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 2 November 1992, at 10 a.m.

Chairman: Mr. POCAR

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GE.92-18248 (E)

The meeting was called to order at 10.20 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Second periodic report of Venezuela (CCPR/C/37/Add.14)

1. At the invitation of the Chairman, Mr. Arteaga, Mrs. Poitevien and Mrs. Ruesta de Furter (Venezuela) took places at the Committee table.

2. Mr. ARTEAGA (Venezuela), introducing the second periodic report of Venezuela (CCPR/C/37/Add.14), apologized on behalf of his Government for the late submission of the report. The delay was due solely to internal organizational factors and in no way implied any lack of determination on the part of Venezuela to fulfil its obligations under the Covenant. One of the measures taken recently to avoid a recurrence of that situation was the establishment within the Ministry of Foreign Affairs of a Human Rights Unit.

3. In preparing its second periodic report, his Government had taken into account the guidelines approved by the Committee and, in particular, the comments made during the Committee's consideration of Venezuela's initial and supplementary reports (CCPR/C/6/Add.3 and CCPR/C/6/Add.8).

4. Since the Committee's consideration of those reports, the Government had continued to make considerable efforts aimed at promoting respect for human rights in accordance with its constitutional mandate and its international commitments.

5. As in all countries, situations also arose in his country which violated human rights, and the Government was determined that its responsibility was not limited to punishing those guilty of violations but also included the adoption of measures designed to prevent a recurrence of such violations in the future. In that respect, it had adopted a policy of informing, training and sensitizing the national sectors concerned with the protection of human rights in the country. Those activities were being carried out with support from the United Nations Centre for Human Rights and the Inter-American Commission on Human Rights.

6. Since 1982 Venezuela had made significant progress in the legislative field. For example, in July 1982, the partial amendment of the Civil Code had been approved and, in January 1988, the Organic Law on the Protection of Constitutional Rights and Guarantees had been adopted. Furthermore, the amendments to the Labour Law had entered into force on 1 May 1991.

7. As the representative of Venezuela had pointed out to the Committee in 1984, the amendment to the Civil Code had done away with a number of provisions which had been contrary to the basic principle of legal and social equality, without any discrimination based on sex or filiation. The amendments to the Code were designed, as far as the Covenant was concerned, to ensure the equality of husband and wife with respect to duties and rights within marriage. More information on that and other subjects could be found in the core document (HRI/CORE/1/Add.3).

8. Prior to 1987, the exercise of the remedy of amparo had only been possible through the application by the courts of articles 49 and 50 of the Constitution. The new Organic Law on the Protection of Constitutional Rights and Guarantees, regarded as the most important legal instrument adopted in Venezuela since the 1961 Constitution itself, introduced important improvements and innovations for ensuring constitutionality and the protection of human rights. Details of the Law were contained in the section of the report relating to article 2 of the Covenant.

9. Lastly, the amendment to the Organic Labour Law introduced changes designed to expand and strengthen the human rights of workers. From the legal standpoint, it was considered that national legislation was in accordance with the provisions of the Covenant. As the Covenant was a part of national law, its provisions were binding and could be invoked by individuals before the courts of the Republic as a legal basis for their claims.

10. Since 1984, when his delegation had last appeared before the Committee, Venezuela had had to deal with two difficult situations. First of all, in February 1989, as a result of a series of economic measures taken by the Government, there had been a social explosion in the country which had had serious effects in the human rights field. Sectors of the population had had their rights impaired by unprecedented outbursts of public violence or arbitrary behaviour on the part of law enforcement officials. Some constitutional guarantees had been suspended throughout the national territory and action taken in accordance with article 4 of the Covenant. That had been an exceptional and temporary measure: the common good had required that the freedom of action of some should be sacrificed to the security of all.

11. Secondly, on 4 February 1992 an attempted military coup had endangered the stability of the country's democratic system. The failure of the coup had demonstrated that the democratic institutions were founded on a solid base, namely the exercise of popular sovereignty. Political, economic, military, trade-union, church and academic circles had rallied to a position of national unity in order to seek ways out of the crisis. Once again, a critical situation had made it necessary to suspend guarantees with a view to avoiding public disturbances. On 4 February 1992, the Ministry of Foreign Affairs had notified the Secretary-General of the United Nations and, through him, the States parties to the Covenant, of the temporary nation-wide suspension of guarantees provided under various articles of the Constitution. On 21 February and 23 April 1992, the Secretary-General had been informed of the partial and total restoration, respectively, of the suspended guarantees.

12. His Government firmly believed in freedom. As a demonstration of its democratic stability, Venezuela was planning to hold elections for the posts of governors, mayors and councillors in December 1992, less than a year after the failed coup. It was determined to continue its efforts to ensure economic and social development in such a way that all Venezuelans, without any distinction whatever, could enjoy their fundamental rights.

13. Venezuelans were aware of the formidable difficulties that had to be overcome in order to promote and consolidate development and were therefore participating actively in international efforts aimed at achieving a more just

international order and improved opportunities for all peoples. For that purpose, they had participated actively in the defence and promotion of human rights at both the regional and world levels.

14. His Government was ready for an open and sincere dialogue with the Committee and looked forward to the valuable comments and recommendations which members of the Committee might wish to make with a view to overcoming the problems described in the report.

15. The CHAIRMAN invited the delegation of Venezuela to reply to the questions contained in section I of the list of issues to be taken up in connection with its second periodic report, which read:

"I. Constitutional and legal framework within which the Covenant is implemented; state of emergency; non-discrimination; equality of the sexes and protection of family and children (arts. 2, 3, 4, 23, 24 and 26)

(a) Please clarify the status of the Covenant within the Venezuelan legal system, in particular whether individuals can invoke the provisions of the Covenant directly before the courts.

(b) Please comment on the impact on the implementation of human rights contained in the Covenant of the entry into force of the Organic Law on Protection. (See para. 21 of the report.)

(c) Please explain whether the reasons for declaring a state of emergency, referred to in paragraphs 52 to 56 of the report, are in conformity with article 4 of the Covenant and provide information on remedies available to individuals during such a period.

(d) Please elaborate on measures taken to investigate cases of disappearances, extrajudicial executions and other excesses committed during the state of emergency; to punish those found guilty; and to compensate the victims. What concrete measures have been taken to prevent the recurrence of such acts? (See paras. 53, 67 and 68 of the report.)

(e) Has the adoption of amendments to the Civil Code and the Labour Code and of other reforms with a view to eliminating inequalities between men and women led to any measurable progress to date?

(f) Please provide further information on the law and practice relating to the employment of minors and elaborate on the light work which minors under the age of 14 might be authorized to perform by the administrative authorities. (See para. 407 of the report.)"

16. The CHAIRMAN said that section I (d) of the list of issues should be transferred to section II.

17. Mr. ARTEAGA (Venezuela), referring to sections I (a) and (b), said that under article 128 of the Constitution, international treaties concluded by the Executive had to be approved by a special act. Therefore, the fact that a treaty had been signed did not mean that it was automatically incorporated

into the Venezuelan legislation. Under Venezuelan law, there was a hierarchy whereby treaties occupied second place after the Constitution. The third position was held by organic laws adopted under article 163 of the Constitution and approved by an absolute majority of both Houses of Congress. It was obvious, however, that an international covenant incorporated in Venezuelan legislation took priority over laws adopted under the Constitution. Individuals could invoke the provisions of the Covenant directly before the courts. He referred in that connection to article 50 (1) of the Constitution, which he read out. Congress was also considering legislation providing that all inhabitants of the Republic of Venezuela enjoyed all the rights and guarantees established by international human rights treaties and agreements ratified by Venezuela, which would be given priority over any internal law.

18. With respect to section I (c), the reasons for declaring the state of emergency referred to in paragraphs 52-56 of the Report had been in conformity with article 4 of the Covenant. The disturbance of public order had made it necessary to suspend certain constitutional guarantees. However, it should be noted that the rights set forth in articles 6, 7, 8, 11, 15, 16 and 18 of the Covenant had not been suspended during the state of emergency, and during that period, people had continued to exercise the right of amparo in proceedings.

19. Referring to section I (e), he said that the amendments to the Civil Code and the Labour Code had already led to considerable progress. The Public Prosecutor's Office enjoyed widespread support in its efforts to promote the rights of women in accordance with the Convention on the Elimination of All Forms of Discrimination against Women. The Public Prosecutor's Office gave special consideration to women who reported cases of violence.

20. In Venezuela, there were five women ministers in the Government. In the legislature, there were 4 women senators and 19 deputies. As to the judiciary, women judges were in the majority. However, while there were many women in official positions, much remained to be done to achieve equality. The amendment to the Civil Code had improved the situation of married women, and responsibility for making decisions and taking action was shared by the spouses. The amendments to the Code had also improved the situation of children and there was no longer any difference between those born in or out of wedlock.

21. Referring to section I (f), he said that his Government's report contained a good deal of information on the situation of minors. Venezuela had ratified ILO Convention No. 138 and other international instruments specifically designed to protect children, including the Convention on the Rights of the Child. The National Institute for Minors was responsible for the protection of children. The Organic Labour Law, which had entered into force on 1 May 1991, contained a chapter devoted to child labour whose purpose was to prohibit work by children under the age of 14, with the exception of light work by those over the age of 12. Provision was made for a shorter working day and for the prohibition of certain types of activities considered harmful to the health of minors.

22. Mr. PRADO VALLEJO welcomed the delegation of Venezuela, a country that was inextricably linked to his own by a lengthy history and which was to be admired for its active commitment to democracy.

23. Venezuela had recently gone through some very difficult times. As described in the report, a serious economic situation had led to social violence and military instability culminating in an attempted coup d'état, which had fortunately failed. It was against that background that the Venezuelan report had to be considered.

24. The Venezuelan representative's comments on the links between development and human rights were most pertinent in considering how such a democracy as solid as Venezuela's could have experienced such an upheaval. The economic situation being experienced by the third world, in particular Latin America, with its vast burden of foreign debt, was creating unpredictable situations with regard to democracy and the rule of law, aggravated by the fact that the International Monetary Fund imposed severe economic restraints on those countries. Until the IMF and the captains of finance realized that economic problems could not be solved through extreme measures, democracy in Latin America would be in danger.

25. The Venezuelan report was a sound one, carefully describing the background to and reasons for the introduction of the state of emergency in the country. In the context of that state of emergency, certain human rights had been suspended. The Venezuelan Constitution did not precisely define which rights could be suspended in an emergency situation, which had led to uncertainty for both the people and the authorities. He hoped Venezuelan law would be made more specific, in line with article 4 of the Covenant.

26. In his view the imposition of a state of emergency had been perfectly reasonable given the situation of violence in the country. However, reports indicated that there had been excessive use of force by the police and the military, involving ill-treatment during detention and even torture and deaths. Numerous allegations had been received to the effect that the remedy of habeas corpus had not been in operation, which was surprising in a country like Venezuela which had always respected democracy. He read out a statement by Mr. Raúl Dominguez, a legal adviser to the Public Prosecutor's Department, to the effect that when human rights guarantees were suspended, the courts should not admit applications for amparo. That statement struck him as odd, and he hoped the representative of the Public Prosecutor's Department could allay members' concerns in that regard, because it was important for remedies regarding detention to continue to be applicable during a state of emergency. As the delegation was no doubt aware, the Inter-American Court of Human Rights had declared the remedy of habeas corpus to be essential under states of emergency.

27. He asked what powers the military courts possessed in states of emergency and the number of citizens tried by those courts, which also had jurisdiction over civilians. He would like to know whether problems had been encountered in that connection, since there had been reports that the military courts had been responsible for abuses against civilians. Another concern was the allegation that under the state of emergency detainees had not always had a representative of the Public Prosecutor's Department available during investigation and detention. He wished to know whether there was any basis for that claim, given the fact that a function of that Department was to provide detainees with protection.

28. He would like further information on the Vagrancy Act, which had been denounced as unconstitutional because it permitted detention on the grounds of suspicion that an individual did not hold a job. That was unacceptable in view of the vast numbers of unemployed persons in the Latin American countries, and the implementation of such a law would only aggravate the social situation. The Act had been denounced as unconstitutional several years before but was apparently still being applied. He hoped a decision would soon be handed down by the Venezuelan authorities in that connection, since it was imperative to avoid such arbitrariness.

29. Another important issue concerned the dissemination of the report in Venezuela. He happened to know that when certain Venezuelan human rights organizations had requested copies of the report from the authorities, they had been told that it was "reserved". In fact, not only was the report not "reserved", it should be given the widest possible publicity.

30. In conclusion, he praised the democratic spirit shown by the Venezuelan Government in its efforts to overcome social and political problems. He wished to emphasize that the purpose of the Committee's questions was in no way accusatory.

31. Mr. AGUILAR URBINA extended a warm welcome to the Venezuelan delegation and associated himself with Mr. Prado Vallejo's remarks, particularly with regard to the events that had occurred in February 1989 and February 1992. Venezuela had produced an excellent report which did not attempt to conceal problems and which provided the basis for a fruitful dialogue with the Committee.

32. Referring to paragraph 9 of the report, which stated that a person must be able to read and write in order to hold public office, he inquired about the rate of illiteracy in Venezuela, and particularly that of children enrolled in school. Regarding article 4 of the Organic Law on the Protection of Constitutional Rights and Guarantees, paragraph 18 of the report stated that amparo proceedings could be instituted if a court acted beyond its authority. He would like to know what would be the situation if a court acted within its authority but nevertheless went beyond the provisions of the Covenant.

33. The Venezuelan delegation had referred in its introduction to the Covenant's position in the Venezuelan legal order. He would like to discuss that issue in relation to article 4 of the Covenant, which set forth the rights from which no derogation was permitted. His own position in that respect differed somewhat from that of Mr. Prado Vallejo. As stated in paragraph 50 of the report, article 241 of the Constitution did specify which rights must not be restricted or suspended in case of emergency. However, he had doubts as to whether article 128 of the Constitution and Venezuelan case law in fact gave priority to the Covenant, especially as, under the Latin American system, case law did not necessarily have to be followed by the court. He would therefore like to know what means were available in Venezuela beyond an interpretation of article 50 of the Constitution to ensure that the Covenant prevailed under all circumstances.

34. The situation of women in Venezuela, especially de jure, had improved in recent years. In that connection, he would like to know the status of the proposed legislation referred to in paragraphs 48 and 49 of the report.

35. The existence of the Vagrancy Act gave cause for concern in view of the large number of unemployed persons in Venezuela. He had been surprised to learn that a person whose income derived from prostitution was considered to be a vagrant under the Act, and he would like to know the difference between such persons and other vagrants under the Act. In view of that situation, he wondered why prostitution was not considered to be an offence in Venezuela.

36. Mr. EL SHAFEI praised the Venezuelan report, which was drafted according to the Committee's guidelines and was extremely candid in acknowledging the problems encountered in implementing the Covenant. Venezuela's ratification of a number of international instruments between the time of the initial report and that of the second periodic report, including the Second Optional Protocol aiming at the abolition of the death penalty and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, were evidence of its willingness to implement international treaties. Regarding the status of the Covenant, he noted that the report and the oral introduction referred to the Covenant's superseding legislation enacted before its ratification by Venezuela but did not specifically say whether a subsequent law that ran counter to the Covenant was also superseded by it. He would appreciate assurances from the Venezuelan delegation on that point.

37. Regarding the question raised by Mr. Aguilar Urbina concerning the requirement that a candidate for public office should be able to read and write, he wondered why such a law, which was incompatible with article 13 of the Covenant, was still on the statute-book. In connection with the Organic Law on the Protection of Constitutional Rights and Guarantees, he asked what mechanism that Law established for the protection of those rights. Regarding the recent legislative amendments, he would like to know the content of article 43 of the Criminal Code, referred to in paragraph 40 of the report.

38. He would also welcome further information on the organization of the system of unattachable family patrimony referred to in article 73 of the Constitution and on the status of the bill on equal opportunities for women mentioned in paragraph 49.

39. Concerning article 4 of the Covenant, he shared the concerns of Mr. Aguilar Urbina and Mr. Prado Vallejo regarding the position of the Venezuelan Constitution and laws in respect of rights and freedoms not permitting of derogation other than the rights mentioned in article 241 of the Constitution.

40. Finally, he would like clarification concerning the powers of the special courts to try civilians.

41. Mr. SADI welcomed the delegation of Venezuela and commended it on its constructive spirit. The excellent report was descriptive and informative. The statement in paragraph 53 that the Government regretted the excesses that

had presumably occurred as a result of the action of the security forces of the State was an admission that gave additional credence and legitimacy to the report.

42. The status of the Covenant within the Venezuelan legal system was not entirely clear. It was stated that when a treaty was ratified it acquired legal force, but he had the impression that the Covenant had yet to become very relevant to Venezuela's practice and jurisprudence. He shared Mr. Prado Vallejo's views about dissemination and wondered how many people were aware of the significance of the Covenant. It appeared that much remained to be done in that regard before it acquired the prominence it deserved. He would be interested to know of some specific instances in which the Covenant had been invoked. The case mentioned in paragraph 21 was not a good example of how that could be done. He would welcome some specific information on the number of prosecutions brought as a result of the excesses referred to in paragraph 53.

43. Mr. WENNERGREN joined in welcoming the delegation of Venezuela and expressed appreciation for the core document (HRI/CORE/1/Add.3) and the comprehensive second periodic report. He particularly appreciated the State party's frankness in describing its difficulties and its plans for improving the human rights situation still further.

44. The Organic Law on the Protection of Constitutional Rights and Guarantees was extremely important. It was not clear to him, however, how the Organic Law was to be made known to the public in a large, heavily forested and mountainous country like Venezuela. There might even be difficulties in some urban areas. To become effective, the Organic Law should be familiar to everyone. Was use being made of newspapers, radio and television for the purpose?

45. Human rights should exist at all levels in any country. No chain was stronger than its weakest link, which always consisted of the officials acting at the field level. The training to which the delegation had referred had been directed to officials at the higher levels rather than to those at the field level, with which citizens most often came into contact. What steps was the State party taking, or what steps did it intend to take in the future, in that respect?

46. He noted from paragraph 19 of the report that amparo proceedings might be heard by the competent administrative court if there was one in the area. How was the administrative court system arranged in Venezuela, and what type of decisions did those courts take? It was further stated in paragraph 19 that, in the cases described, the court should, if it considered it necessary for the protection of constitutional rights, briefly, summarily, effectively and in accordance with the provisions of article 22, suspend the effects of the act in question as a guarantee of the violated constitutional right, for the duration of the proceedings. Did that refer to the proceedings of the court itself or to subsequent proceedings in the Supreme Court. Would such a decision be only an interim decision that would merely apply until the administrative court had come to a final decision? If the latter satisfied the complainant, would that mean that the case was concluded and the Supreme Court would not be involved?

47. Mr. DIMITRIJEVIC joined in welcoming the Venezuelan delegation and commending the comprehensive and frank report. He associated himself with the questions raised by previous speakers and had only one further point to raise: it was important to know what the situation would be in the event of a discrepancy between the Constitution of Venezuela and the Covenant. He noted from paragraph 453 of the report that article 61 of the Constitution prohibited discrimination based on race, sex, creed or social condition, and that titles of nobility or hereditary distinction would not be recognized. That list, however, omitted to mention discrimination based on colour, language, national origin or political opinion, which were expressly prohibited under the Covenant. Why had those grounds been omitted, and was there any discrimination with respect to them?

48. Mr. ARTEAGA (Venezuela) thanked the members of the Committee for their comments on the report, which was intended to give as complete a picture as possible of the steps taken by Venezuela to implement the provisions of the Covenant.

49. He shared the concern expressed by Mr. Prado Vallejo about the need for wider dissemination of the report. It had been issued relatively recently and that might explain why it had not as yet been circulated to the various interested bodies, but it was certainly intended to disseminate the report and the Covenant itself as widely as possible. The same applied to the Organic Law on the Protection of Constitutional Rights and Guarantees.

50. Reference had been made to article 241 of the Constitution, which stated that, in case of emergency or disorder that might disturb the peace of the Republic, or of grave circumstances that affected economic or social life, the President of the Republic could restrict or suspend all or some of the constitutional guarantees with the exception of those proclaimed in article 58 and in sections 3 and 7 of article 60. That clause offered sufficient guarantees for the safeguarding of fundamental rights. The Covenant was applied as domestic law in Venezuela, which was thus fully covered by its provisions.

51. Mrs. POITEVIEN (Venezuela) thanked members of the Committee for their comments on the report, whose preparation had been a lengthy process in which she herself had participated. An effort had been made to achieve clarity and sincerity.

52. Mr. Prado Vallejo had asked whether habeas corpus had operated during the state of emergency and suspension of guarantees. The Public Prosecutor's Department had a unit responsible for monitoring respect for human rights under the Constitution. During the period covered by the report, guarantees had been suspended on two occasions - during the events of 4 February 1989 and those of 27-28 February 1992. She quoted some paragraphs from instructions that had been sent on 4 February 1989 to the various authorities responsible for dealing with the situation, which she could make available to members of the Committee if they so wished. The Commander of the National Guard, for example, had been urged to be vigilant in order to avoid excesses and human rights abuses. Public officials had been instructed to keep within the limits set by the Constitution, and the Judicature Council had been requested to explain why the Office of the Attorney-General of the Republic was opposed to

the presentation of application for amparo, since the Inter-American Court of Human Rights had stated in an advisory opinion that, in time of public emergency which threatened the life of the nation, the legal guarantees necessary for the protection of human rights could not be suspended.

53. As could be seen from paragraph 18 of the report, article 4 of the Organic Law on the Protection of Constitutional Rights and Guarantees provided that amparo proceedings could be instituted if a Venezuelan court, acting beyond its authority, issued a decision or ruling or ordered an act which violated a constitutional right. The right to the remedy of amparo was also established under the 1961 Constitution, but only in 1988 had the Organic Law been promulgated, and during the intervening period there had been a controversy as to whether the provision on amparo in the Constitution related to a fundamental right or to a guarantee. The courts had interpreted it as a fundamental right directly applicable to citizens. In 1988, when the Organic Law had entered into force, the courts of first instance had been empowered to apply that important remedy. Each court dealt with the specific rights under its competence. The right to habeas corpus in the case of detainees, for example, was dealt with by the criminal courts, civil rights and labour rights by the respective civil and labour courts; and environmental rights by agrarian and rural courts. The judge in each case had to be aware of the rights of citizens that came within his competence.

54. During the suspension of rights and guarantees following the events of 4 February 1992, an application for amparo concerning the right to information had been submitted to the Supreme Court. The Supreme Court had granted the request without undertaking a prior investigation of its admissibility. It had thus established a precedent for handling an application for amparo during a state of emergency, and the obligation of the courts to decide on the substance of the matter had been made part of the jurisprudence of Venezuela.

55. The right of amparo did not apply only to individuals: there were several cases in which judges had accorded it in respect of collective rights as well. In one case, a worker in a State enterprise who had been suffering from AIDS had been dismissed. The court had accorded amparo not only to the worker but also to all workers in the enterprise, as they, too, might find themselves in the same situation some day. There was also a case in which a community had requested protection of its environmental rights following the pollution of a river by a number of enterprises. The Public Prosecutor's Department had upheld the right to a clean and healthy environment, and reparation for damage had been ordered. Another recent case involved a request from a number of human rights bodies, citizen's defence organizations and environmental groups for court protection of the right to health of the citizens of Caracas. The civil court of first instance had decided in favour of the application, but following a review in a higher court, the decision had been overturned and the case was now before the Supreme Court.

56. The right to amparo and the relevant legislation were well known in legal circles in Venezuela. There was no institutionalized method, however, for disseminating information on that right, except through lectures and seminars given by lawyers and judges. The Centre for Human Rights and the Organization of American States had been instrumental in organizing activities to focus attention on human rights instruments. The Public Prosecutor's Department arranged informal talks for the general public, civil servants and university

students on means of promoting human rights. She herself had given lectures to security and police officers on the legal limitations on the use of firearms and on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

57. It was noteworthy that in the aftermath of the events of 27-28 February 1989, there had been a perceptible increase in efforts by civil servants to learn the rules for protection of human rights, both in states of emergency and in normal times. It was be clear that many of the abuses that had occurred had been committed out of simple ignorance of the proper conduct to be observed.

58. Examples of specific cases in which the Covenant had been invoked before the courts had been requested. Officials of the Public Prosecutor's Department often referred to the rights set out in international instruments, and that practice had been increasing of late. The courts, however, were not accustomed to citing such instruments, because it was assumed that all human rights were adequately covered in the Venezuelan Constitution. During the preparation of the report before the Committee, the Supreme Court had been consulted on whether it had cited the provisions of the Covenant in any individual case. Its answer had been that it had done so in one case involving the right to legal counsel. A request for amparo had recently been received from a number of detainees who had referred specifically to human rights instruments. It was one of the few cases in which such instruments had been cited by applicants.

59. In response to Mr. Prado Vallejo's question concerning the military courts and their relationship to civilians, she said that after the events of 27-28 February 1989, the police investigatory bodies had collected evidence on civilian deaths and had reported thereon to the military courts. The Public Prosecutor's Department had informed them that such conduct was inappropriate, and had reminded them that they were auxiliary bodies of the regular system for criminal justice, and not of the military courts. As for the respective competence of military and civilian courts, she said the Supreme Court's rulings, taken together, indicated that military jurisdiction was to be viewed as the exception and that cases should generally be handled in the civilian courts. That was also the view of the Public Prosecutor's Department.

60. On the procedure to be followed for prosecution of cases of violation of the right to life, physical integrity or other human rights, she said an individual could take a case directly to the courts or could address a request to the Public Prosecutor's Department for investigation of officials allegedly implicated.

61. In response to the question about the right to legal counsel of detainees in military detention centres, she acknowledged that the military guarded its prerogatives and powers jealously. Although the Public Prosecutor's Department was entitled to visit places of detention in military units, it was rarely possible to organize such visits on a surprise basis. A series of authorizations had to be requested and obtained. Under a state of emergency, access to military detention centres became even harder. The efforts being made by the Public Prosecutor's Department to improve its institutional

relationships and clarify its functions were bearing fruit, however. It should be noted that the military had its own prosecutor's department with its own administrative structure and competence determined by military regulations.

62. Mr. Sadi had asked whether specific cases had been submitted to the courts in connection with the events of 27-28 February 1989. The Public Prosecutor's Department had carried out a great many inspections at the headquarters of the military police and investigatory services. All complaints about disappearances, arbitrary detention and other human rights violations had been processed and handed over to the competent courts for further investigation. The Attorney-General of the Republic had met representatives of non-governmental organizations and, subsequently, weekly meetings among the parties had been convened in order to give effective follow-up to all complaints about human rights violations. Eighteen complaints of disappearance had been registered, but only two had been confirmed through investigation. Although every effort had been made to carry out thorough inquiries, in many cases there was not enough proof to permit responsibility to be attributed to a particular individual, which, under Venezuelan law, was a prerequisite for prosecution. Nevertheless, when well-founded indications of responsibility on the part of public officials had been uncovered, the Public Prosecutor's Department had requested investigations, and some cases had subsequently been brought to court. One such case was that of a woman who had been blinded by injuries allegedly inflicted by a police officer, and another in which a civil servant had been charged with a women's murder.

63. Relatives of a number of persons who had died during the disturbances of February 1989 had appealed for a new investigation to clarify certain matters. The Attorney-General had called for the exhumation of 240 bodies buried in communal graves. The court of first instance had referred the case to the military court, but the Public Prosecutor's Department had objected to that decision.

64. Questions had been asked about the Vagrancy Act. It had been promulgated before the adoption of the democratic Constitution of Venezuela in 1961, and it was true that it violated the rights of the individual, especially the right to legal counsel. All the Venezuelan authorities agreed that the Act should be abolished and a new system for dealing with vagrants put into place. A draft law designed to achieve that end was being discussed in Parliament, but no agreement had yet been reached on the new system to be established. There were 482 residents of the El Dorado re-education centre. Governors in two administrative districts refused to apply the provisions on incarceration of vagrants. The Public Prosecutor's Department had a special office that dealt with decisions by the Ministry of Justice for committing an individual to a rehabilitation centre. The office sought to minimize the arbitrary application of the law and to have administrative acts revoked where they covered cases involving irregularities.

65. Mrs. RUESTA de FURTER (Venezuela), referring to Mr. El Shafei's questions about the Criminal Code, recalled that the Code had been adopted in 1949 and required a great many amendments indeed. One very important advance in the cause of human rights and equality between men and women was the ruling that one article of the Criminal Code could no longer be applied. That article had

established highly discriminatory criteria for punishment in cases involving the killing of one spouse by the other. Thanks to a reform of the Civil Code in 1945, women had been entitled to vote since that date. Women and men had been given equal rights when entering into marriage, and no distinction was made between children born in or out of wedlock.

66. She was somewhat puzzled by the question raised by Mr. Dimitrijevic concerning various types of discrimination. As far as discrimination based on race was concerned, nearly the entire population of Venezuela was of mixed ancestry. The only racially pure Venezuelans were the Indians, and they represented less than 1 per cent of the total population. There were no problems of discrimination founded on religion or national origin, and the rights to information and freedom of conscience were fully ensured.

67. Mr. Wennergren and Mr. Prado Vallejo had inquired about efforts to publicize human rights: a great deal had already been achieved in that area, but more needed to be done, and the Government was aware of that fact.

The meeting rose at 1.05 p.m.